described as the "watering down" of the caution given as to the rule of prudence requiring corroboration of a complainant of whatever age in sexual cases. It is true that in that case the comments of the Deputy Chairman went further than the passage to which we have referred in the charge of the learned trial Judge. It is, however, also true that the Lord Chief Justice referred to the evidence in the Gammon case as being "although uncorroborated, very strong". Nevertheless the conviction was set aside.

In the present case the evidence seems to us to be by no means strong and to have required the very closest examination before acceptance. It is in that light that we feel that it was unfortunate that the learned trial Judge qualified, or put a gloss upon, his very necessary warning that in practice corroboration in such a case is always looked for.

The necessity for this rule of prudence, which in practice should almost have the force of a rule of law in sexual cases, hardly needs restatement. There can be no class of case in which fabrication on the part of a complainant is so easy and refutation on the part of the accused so difficult as an allegation of rape. One has only to contemplate the possibility of a normal, albeit illicit, act of copulation being, after an interval of time for reflection, transmuted by the complainant into an act of rape.

It should surely be accepted now in criminal courts that the rule of prudence to which we have referred is one of such practical good sense that it should only be departed from in the most exceptional cases and it can certainly, in our opinion, not be said that the present is such a case.

Apart from all other considerations of the evidence in this matter there remains the considerable possibility, that, even if the stranger in question had forceful connection with the complainant on the day in question, he was unassisted by the appellant; and that the reason why the complainant introduced the appellant into the episode of rape was that he was the only one of the three person present on that day whom she was able to identify.

While no doubt the jury took an adverse view of the appellant and by their verdict expressed their satisfaction of his guilt, we consider that this is a case, for the reason which we have given, where it is unsafe to allow the conviction to stand. It is far better that occasionally a guilty man should escape when charged with a sexual offence that that any encouragement should be given to the view that the rule of prudence, which as Lord Goddard himself says is a sound rule in practice, can be disregarded, save in the most exceptional circumstances. The present is certainly not such a case and is, in our opinion, eminently one in which the jury should have been warned in the clearest terms, without qualification or gloss of any kind, of the risk that they would be running in acting on the uncorroborated evidence of the complainant.

It stands to reason that if the conviction as to abetment of rape is set aside that as to the robbery also cannot stand.

For these reasons the appeal must be allowed and the conviction and sentence set aside.

Appeal allowed.

Solicitors: *Marshall & Chung.*

PUBLIC PROSECUTOR v. CHUA SIANG KANG

[A. C. J. (Rose C.J.) October 20, 1960]

[Singapore — Magistrate's Appeal No. 184 of 1960]

Criminal Law (Temporary Provisions) Ordinance, 1955, s.49A(1)(f) — Police Supervision Order under — Direction prohibiting visit "at any time" — Whether compliance with direction limited to take effect "between such hours as may be specified."

Interpretation — Ambiguity — Raising genuine doubt as to which of two interpretations should be adopted.

A Police Supervision Order under section 49A(1)(f) of the Criminal Law (Temporary Provisions) Ordinance, 1955 must specify the hours between which the person affected must remain within doors or within the prescribed area. A direction, as in this case, that a person shall not *at any time* visit such an area does not fall within the scope of the sub-paragraph. An order restricting a person from entering certain area "at any time" does not comply with the requirement that a direction must be limited so as to take effect "between such hours as may be specified". It therefore follows that sub-paragraph (f) of section 49A(1) of the Ordinance, as it stands at present, does not entitle the Minister to impose condition (e) in the Police Supervision Order, restricting the respondent from entering a certain area "at any time". The appeal must therefore be dismissed and the decision of the learned District Judge affirmed.

MAGISTRATE'S APPEAL.

A. W. Ghows (Ag. Senior Crown Counsel) for the appellant.

Tan Boon Teik (Director of Legal Aid), *Amicus curiae.*

Rose C.J.: The charge against the respondent was as follows:—

"You are charged that you, on or about the 28th day of July, 1960, at about 5.05 p.m. being a person placed under Police Supervision by Order of the Minister of Home Affairs, made under Section 47 (b) Ordinance 26/55 and by reason of the restriction imposed on you that you shall not at any time visit the area bounded by, Stamford Road, St. Andrew's Road, High Street, Hill Street, Coleman Street and Armenian Street, were found visiting Chin Nam Street, which is bounded by the said boundaries, and you have thereby committed an offence under Section 49A(1)(f) and punishable under Section 49A(3) of Ordinance 26/55."

The respondent pleaded guilty but the learned District Judge treated that as amounting to no more than an admission of the facts and upon consideration of the legal implications in the matter acquitted the respondent. It is against that acquittal that the Deputy Public Prosecutor now appeals.

The relevant part of section 49A of the Criminal Law (Temporary Provisions) Ordinance, 1955 as amended by the Criminal Law

(Temporary Provisions) (Amendment No. 2) Ordinance, 1959 (No. 56 of 1959) reads as follows:—

"Restrictions on person subject to supervision.

49A.—(1) Any person directed to be subject to the supervision of the police under section 47 or section 49 of this Ordinance (hereinafter in this Ordinance referred to as a person subject to supervision under this Ordinance) shall be subject to the obligations imposed upon persons subject to police supervision under section 14 of the Criminal Procedure Code and shall also be subject to all or any of the following restrictions as the Minister may by order direct:—

* * * *

(f) he shall remain within doors or within such area as may be defined in the order, between such hours as may be specified in the order, unless he obtains special permission to the contrary from the officer in charge of the police division in which he resides".

Condition (e) of the Police Supervision Order reads as follows:—

"(e) shall not at any time visit the area bounded by the following roads: Stamford Road, St. Andrew's Road, High Street, Hill Street, Coleman Street and Armenian Street".

It was contended by Mr. Tan Boon Teik who, the respondent being unrepresented, kindly appeared as *amicus curiae* — and this was also the view of the learned District Judge — that condition (e) was *ultra vires* the Ordinance in that the Ordinance empowers the Minister to direct that a person should be confined within a certain area, but not that he should be debarred from entering a certain area.

Learned Crown Counsel contends that the irregularity — if irregularity it is — is one of form and not of substance. He points out that, in effect, no distinction is to be drawn between an order limiting a person to a particular area of the island and one debarring him from entering the remainder of the island.

Practically speaking that is, no doubt, the case, but when one is considering a highly penal statute such as the present there is force in the contention that form itself is of the essence even if the order in question does not offend against the spirit of the statutory provision.

Be that as it may, a second point arises which, in my opinion, avails the respondent. It is to be noted that a Police Supervision Order under section 49A(1)(f) must specify the hours between which the person affected must remain within doors or within the prescribed area. It seems to me that the reasonable interpretation of this requirement is that the direction (or curfew order, as it may colloquially be described) should be operative for a limited period in each day, which should be specified in the Order.

This view of the matter is reflected in condition (b) of the Police Supervision Order in question, which provides that the respondent "shall remain indoors between 7 p.m. to 6 a.m., except by special permission of the Officer-in-charge of the Police Division at Joo Chiat".

In the course of the argument learned Crown Counsel conceded that the reasonable view of the matter would seem to be that a direction, as in the present case, that a person shall not *at any time* visit such and such an area does not fall within the scope of the sub-paragraph. He submitted, however, that the qualification contained in the words "between such hours as may be specified in the order" should be held to apply only to the first clause of the preceding sentence i.e. "he shall remain within doors" and not to the second clause "or within such area as may be defined in the order".

With respect to learned Crown Counsel, I am unable to accede to that view. In the light of the ordinary rules of interpretation I would be prepared to hold that the qualification "between such hours" applies to both clauses referred to above. But from the point of view of the respondent it is unnecessary to go so far. It is sufficient for him if I come to the conclusion that the view stated is permissible, this being a highly penal statute. If, therefore, an ambiguity arises, raising a genuine doubt as to which of two interpretations should be adopted, then in accordance with a basis rule of construction that interpretation should be adopted which favours the subject. Similarly, quite apart from learned Crown Counsel's concession with which I personally agree as to the meaning of the words "between such hours", it must, in my opinion, at the lowest be regarded as a permissible view that an order restricting a person from entering a certain area "at any time" does not comply with the requirement that a direction must be limited so as to take effect "between such hours as may be specified".

For these reasons I am of opinion that subparagraph (f) of section 49A(1) of the Ordinance, as it stands at present, does not entitle the Minister to impose condition (e) in the Police Supervision Order, the subject matter of the present proceedings.

The appeal must therefore be dismissed and the order of the District Judge affirmed.

Appeal dismissed.